

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2706 - SB 2681

June 4, 2020

SUMMARY OF ORIGINAL BILL: Increases, from 15 days to 15 business days, following discovery, the time in which a person must endeavor to serve notice of a claim related to an alleged construction defect.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (018153): Deletes all language after the enacting clause. Makes various technical changes related to prime and remote contractors.

Specifies that any state, any department, board, or agency thereof, all counties and municipalities, and any other subdivision of the state construction contracts on any project that fails to provide for the withholding of retainage is not an offense.

Specifies that if the party withholding the retained funds fails to deposit the funds into an escrow account that the payment of \$300 per day is considered damages, not a penalty. Deletes applicability to the state, any department, board, or agency thereof, and all counties and municipalities.

Outlines various requirements regarding remedies for delinquent payment or nonpayment under the Prompt Pay Act, Tennessee Code Annotated Title 66 Chapter 34.

Specifies that equitable relief may not be sought against the person holding the retainage as an escrow agent and that person bears no liability for the nonpayment of the retainage.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- All state and local entities engaging in construction contracts are presumed to uphold payment agreements with all parties of said contract.
- The proposed legislation does not cause a significant impact to the Board of Licensing Contractors (BLC).

- This legislation specifically exempts the state, any department, board, or agency thereof, including the University of Tennessee, all counties and municipalities, and all departments, boards, or agencies thereof, including all school and education boards from certain fiscal penalties.
- Therefore, any impact resulting from this legislation will be borne by private parties and there will not be a significant impact to state or local government expenditures.
- This legislation will not significantly impact courts' caseloads. Any fiscal impact to state or local government is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jmg